

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Petition of Verizon Telephone Companies for) WC Docket No. 06-172
Forbearance Pursuant to 47 U.S.C. §160 (c)
In The Boston, Metropolitan Statistical Area.)

**THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION
AMENDED JOINDER IN COMPETITIVE CARRIERS' MOTION TO DISMISS**

The New Hampshire Public Utilities Commission (“NHPUC”) files these comments in opposition to Verizon’s use of the E911 database to support its request for forbearance, pursuant to 47 U.S.C. §160. Verizon has requested forbearance in the Boston Metropolitan Statistical Area (“Boston MSA”). A portion of the Boston MSA, namely the counties of Strafford and Rockingham, is located within the State of New Hampshire. As a result of Verizon’s misappropriation of proprietary data contained in the Enhanced 911 (E911) database, the NHPUC urges the Commission to dismiss Verizon’s petition for forbearance filed in this docket to the extent that it relies upon E911 data.

Legal Standard For Use of E911 Data under NH RSA 106-H:9

New Hampshire law prohibits Verizon, the vendor providing E911 database administration to the state of New Hampshire, from using the E911 database for any purpose other than for support of the state’s E911 emergency service. RSA 106-H:9 reads, in pertinent part:

“III. (a) Notwithstanding any other provision of law, and except as otherwise provided in RSA 82-A [relating to the communications service tax], the records and files of the department, related to this section are confidential and privileged. Neither the department, *nor any vendor or any of its employees to whom such information becomes available in the performance of any contractual services for the department* shall disclose any information obtained from the department’s records, files, or returns or from any examination, investigation, or hearing, nor may any such employee or person be required to produce any such information for the inspection of any person or for the use in any action or proceeding except as provided in this paragraph.” NH RSA 106-H:9, III (emphasis added).

The limited exceptions in NH RSA 106-H:9, III do not apply to Verizon’s use of the New Hampshire E911 data in this forbearance proceeding¹.

In New Hampshire Verizon contracts with the State to compile, maintain and administer the database of all E911 customer and location information which it receives from all other carriers in the state, including both regulated and competitive carriers. The purpose of NH RSA 106-H:9 is to prevent any misuse of the public emergency response E911 database. Verizon, in its capacity as a vendor to the state of New Hampshire, is providing a critical governmental function and the New Hampshire legislature made it clear that Verizon was not to use E911 data

¹ RSA 106-H:9 III (b), “The following exceptions shall apply to this paragraph: (1) Delivery to the surcharge collector or its representative of a copy of any return or other papers filed by the surcharge collector. (2) Disclosure of department records, files, returns, or information in a new Hampshire state judicial or administrative proceeding pertaining to administration of the surcharge where the information is directly related to an issue in the proceeding regarding the surcharge under this section, or the surcharge collector whom the information concerns is a party to such proceeding, or the information concerns a transactional relationship between a person who is a party to the proceeding and the taxpayer. (3) Disclosure to the department of revenue administration of records, files, and information required by the department of revenue administration to administer the communications services tax pursuant to RSA 82-A. (4) Disclosure of department records, files, and information to the legislative budget assistant, when requested by the legislative budget assistant pursuant to RSA 14:31, IV.

for any other purpose. As a result, Verizon's use of New Hampshire E911 data in its petition for forbearance is contrary to New Hampshire law.

As a result of its role as administrator of the E911 data base, Verizon receives the name, telephone number and physical address, as well as the service provider of each customer of telecommunications services, as provided by each provider within the state. This information is sensitive and competitive and should not be made available to any other entity, except as may be permitted by law. Verizon itself considers the number and nature of its customers in any wire center to be highly confidential and competitively sensitive information that it takes care to protect in the normal course of business.

Verizon, in its role as E911 database administrator, may not use that role or the information provided to it thereof to gain a competitive advantage in the market. If Verizon were not serving as the E911 database administrator, it would not have access to the information it has submitted to the Commission in support of its petition for forbearance. It is contrary to New Hampshire law for Verizon to use its unique relationship with the state for its competitive gain. NH RSA 106-H:9 clearly requires a high level of protection for this customer specific and carrier specific information. Moreover, Verizon's use of proprietary information obtained from competitors through its unique role as the E911 database administrator to seek relief from certain of its obligations as an RBOC and ILEC suggests gross disregard for the general principles of fair competition and responsible stewardship.

CONCLUSION

For all of the reasons discussed above, the New Hampshire Public Utilities Commission urges the Federal Communications Commission to prevent Verizon from further misuse of the New Hampshire E 911 database for customers in Strafford and Rockingham counties in New Hampshire. Accordingly, the NHPUC joins in the competitive carriers' motion to dismiss Verizon's forbearance petition to the extent that it relies upon E911 data.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, F. Anne Ross, Esq., do hereby certify that on this 7th day of February, 2007, copies of the foregoing Amended Joinder in Competitive Carriers' Motion to Dismiss were served via email and first-class mail postage prepaid to the following:

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/s/ _____
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